

MEMORANDUM

TO: Parties of Record
FROM: R.S. Titus, Deputy King County Hearing Examiner
DATE: June 26, 1996
RE: The Meadows At Lea Hill, DDES file NO. L95P0006, Proposed Ordinance No. 96-101
SUBJECT: CLARIFICATION, CONDITION NO 8C, Examiner's Report dated June 19, 1996

Any reference to 316th Avenue SE in either Condition No 8.C or Conclusion No. 1 of the Examiner's June 19, 1996 **Revised** Report and Recommendation to the King County Council SHOULD READ 116th Avenue SE. This clarification reflects the facts of record. No new appeal period is required. Copies of this memo will be attached to those copies of the Examiner's Report which are forwarded to the Council for adoption by Proposed Ordinance No. 96-101.

RST:gb
cc: Members of the Council
Interested persons

June 19, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
700 Central Building
810 Third Avenue
Seattle, Washington 98104

REVISED:
REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Development and Environmental Services File No. **L95P0006**
Proposed Ordinance No. **96-101**

Proposed Plat of **THE MEADOWS AT LEA HILL**

Location: Lying in the northwest corner of the Southeast 320th Street and 116th Avenue Southeast intersection

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary:	Approve, subject to conditions
Division's Final:	Approve, subject to conditions (modified)
Examiner:	Approve, subject to conditions (modified)

PRELIMINARY REPORT:

The Land Use Services Division's Preliminary Report on Item No. L95P0006 was received by the Examiner on April 9, 1996.

PUBLIC HEARING:

In conjunction with reviewing the Land Use Services Division's Report, visiting the site and surrounding area, and examining available information on file with the application, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. L95P0006 was opened by the Examiner at 9:15 a.m., April 23, 1996, in Hearing Room No. 1, Department of Development and Environmental Services, 3600 - 136th Place SE, Suite A, Bellevue, Washington, and closed at 11:35 a.m. Following issuance of the Examiner's May 2, 1996 Report and Recommendation to the Council, the hearing was reopened June 17, 1996, in Hearing Room No. 2 at 9:15 a.m., in order to address apparent discrepancies of factual record raised by Mr. Thomas Pike. The hearing closed at 10:35 a.m. that same day. The reopened hearing was authorized pursuant to KCC 20.24.098, which authorizes extensions of Examiner review in order to assure due process. Participants at the public hearings, and the exhibits offered and entered, are listed in the attached minutes. A verbatim recording of each hearing date is available in the Office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:
Owner: Robert & Mary Johnson

Developer: 31655 - 116th Avenue Southeast
 Auburn, Washington 98002
 Geonerco, Inc.
 1010 South 336th Street, #215
 Federal Way, Washington 98003
 Engineer: Barghausen Consulting Engineers
 18215 - 72nd Avenue South
 Kent, Washington 98032
 STR: 8-21-5
 Location: Generally located on the west margin of 116th Avenue
 Southeast, approximately between Southeast 315th
 Street and Southeast 320th Street
 Zoning: R-6-P
 Acreage: 7.66 acres
 Number of Lots: 40
 Typical Lot Size: Ranges from 4,486 square feet to 7,349 square feet
 Proposed Use: Single-family detached
 Sewage Disposal: City of Auburn
 Water Supply: City of Auburn
 Fire District: King County Fire District No. 44
 School District: Auburn School District No. 408
 Date of Application: February 9, 1996

2. Property owners Robert and Mary Johnson, together with Developer Geonerco, Inc. (the "Applicant"), propose to subdivide 7.66 acres into 40 single family residential building lots. Proposed lot sizes range from 4,486 square feet to 7,349 square feet, averaging 5,455 square feet per lot in this R-6-P classified property.

3. An environmental impact statement is not required. The King County Environmental Division issued a Mitigated threshold Determination of Non-Significance (MDNS) for the proposed plat of "The Meadows At Lea Hill" on January 16, 1995. That is, the Department published its determination that the proposed development would not cause probable significant adverse impacts upon the environment, provided that it complied with certain mitigating measures. Specifically, the MDNS requires that the drainage discharge rate from the subject property must be **one-half** of the pre-developed two year/twenty-four hour storm release rate for design storm events up to, and including, the 100 year/twenty-four hour storm event. No party or agency presented adverse comment or appealed the MDNS. It became fully effective 15 days following publication.

4. The Department of Development and Environmental Services (the "Department") recommends that the proposed development be granted preliminary approval, subject to 18 conditions of final plat approval as contained on pages 8 through 12 of the Department's April 23, 1996 Preliminary Report to the Examiner (Exhibit No. 2) **EXCEPT** that the Department amends its recommendation No. 8b to require provision of a bike lane "if determined to be feasible by the Land Use Services Division."

In all other respects, the Division's final recommendation is unchanged from its Preliminary Report.

5. The Applicant accepts the Division's recommendation **EXCEPT** that the Applicant disagrees with the Division's recommendation to require a bike lane along the frontage of the property abutting 116th Avenue Southeast right-of-way (recommended Condition 8c on page 10 of the Department's Preliminary Report).

In addition, the Applicant observes that the Department's Preliminary Report is inaccurate at page 5, section H, Finding 4, third paragraph, where it states that the proposed preliminary plat (Exhibit No. 8) reduces inter-section spacing to 265 feet, five feet less than approved by a King County Department of Transportation (KCDOT) variance approval. The Applicant insists that 270 feet is provided, consistent with the King County Road Standards (KCRS) variance, and that the Department has incorrectly interpreted the preliminary plat drawing (Exhibit No. 8a).

6. Regarding the bike lane facility disagreement, the following findings are relevant:

A. The street at issue is 116th Avenue Southeast, designated by King County as a collector

arterial.

- B. The King County Non-Motorized Transportation Plan (Exhibit No. 14) states, in part, the following at page 31:
 The preferred bicycle facility for urban arterial on the bicycle network is the signed and striped (class II) bike lane. The inclusion of the class II bike lane in the County road standards for all arterial construction is recommended, although the use of wide curb lanes is appropriate where avail-able right-of-way to construct bicycle lanes is unavailable . . . The inclusion of class II bicycle facilities on shoulders of roads in urban areas is also encouraged when curb and gutter sections do not exist.
 - C. The bicycle network and facility plan map contained in the King County Non-Motorized Transportation Plan does not identify 116th Avenue Southeast as a bicycle route. According to the Department, the absence of this mapped designation is due to the fact that the bicycle plan map pre-dates the designation of 116th Avenue Southeast as an arterial. For that reason, the Department argues, the language cited in Finding No. 5a should prevail.
 - D. KCRS section 3.10.B.1 requires that a bikeway shall be provided:
 Wherever called for in the Non-Motorized Transportation Plan, King County Transportation Plan, King County Comprehensive Plan, Community Plan, Capital Improvement Plan or Transportation Needs Report.
 - E. The Soos Creek Community Plan update, effective December 30, 1991, also precedes the designation of 116th Avenue Southeast as an arterial. Consequently, the Soos Creek Community Plan does not designate 116th Avenue Southeast as a bicycle route.
7. Neighboring property owners express concern about the following: pedestrian (particularly student) safety; traffic congestion from Green River Community College; speeding on 116th Avenue Southeast; standing water in the northeast portion of the property; peak storm water run-off across Southeast 320th Street near the southwest corner of the subject property; fencing (particularly from the northerly abutting property); adequacy of schools; and, adequacy of provision for future neighborhood circulation immediately west of the subject property.

The following findings are relevant:

- A. Safe walking conditions for students are addressed in section J.1.d of the Department's Preliminary Report (Exhibit No. 2). In most cases students will be bused. In those instances where they will not, wide shoulders are available, except as indicated in Finding No. 8, below.
- B. School enrollment capacity figures submitted by the Auburn School Board indicate that the District has adequate capacity to accommodate the anticipated students generated by this proposal.
- C. As indicated by Finding No. 2, above, the development will be required to contain/detain peak storm events in a manner which results in a remarkably low release rate. In addition, recommended Condition No. 7a requires compliance with King County Surface Water Management Design Manual standards, which include a thorough downstream analysis.
- D. There are no policies, regulations or standards which require, or even encourage, new developments to provide fencing when the authorized use of the subject property and the abutting property are the same.
- E. The Department staff has determined that development of 114th Avenue Southeast, abutting the subject property, is not necessary in order to assure the development potential of the westerly abutting properties. Significant north/south routes are developed, or are designated to be developed, along 112th Avenue South-east, 116th Avenue Southeast, and 124th Avenue South-east. Consequently, the Department does not find the provision of north/south circulation routes to be wanting.
- F. Stop signs are typically not required to be installed as a condition of preliminary plat

approval. Usually, the KCDOT inspects the subdivision once it is developed to determine the appropriate location of signage. Requests for roadway signage placement are properly directed to the Roads Division of KCDOT, not to the Examiner or Metropolitan King County Council.

8. In response to the Examiner's first Report to the Council regarding this proposed plat, dated May 2, 1996, neighboring property owner Thomas Pike raised the following concerns during the appeal period: inadequate notice of the Examiner's Report and Recommendation to the Council; nearby surface water discharge on South 320th Street and its north shoulder; and, safe walking conditions for those students who walk to school or to the nearest bus stop.

A. Inadequate Notification. KCC 20.24.210 allows appeal from Examiner's Reports and Recommendations to the Metropolitan King County Council by "an aggrieved party." In this case, Mr. Pike was identified on the Examiner's May 2, 1996 Report and Recommendation as an "interested person", but his copy was mailed to the wrong address. Mr. Pike received the Report due to rerouting by the U.S. Postal Service. It is not known whether the misdirected mailing was actually received later than other interested persons and parties received their copies, but it is obvious that the Examiner's mailing to Mr. Pike may have arrived late. Recognizing this likelihood, the Examiner reopened the public hearing in order to address the factual discrepancy concerns raised by Mr. Pike. (See also the public hearing description on page 1 of this report.)

B. Drainage. The nearby drainage flows onto the Southeast 320th Street shoulder, sometimes encroaching upon the traveled roadway, is caused by discharges from a fronting property through a four inch diameter drainage outlet. Thus, the drainage problem does not result from the operation of the 320th Street roadside ditch (or any other County drainage facility) and would not be affected by the proposed development. It is a problem, however--one which should be brought to the attention of the King County Surface Water Management Division as a drainage complaint.

C. Safe Student Walking Conditions. The roadside conditions at issue are located along 316th Avenue Southeast, north of the subject property. Along the 316th right-of-way west boundary the roadside shoulder is approximately 4 feet wide; on the east side, one-and-a-half feet to two feet wide (testimony differs). Mr. Pike seeks an expansion of the west side shoulder to the County rural standard of 6 feet to 8 feet shoulder width. This improvement could be accomplished with minimal investment, he contends. The Department disagrees, arguing that the project would be costly--requiring either substantial regrading of an existing slope or installation of a retaining wall, together with installation of either a County standard drainage ditch or culvert.

School officials contacted by both the Applicant and by the Department indicate that children from the new development will be picked up by bus at the entry to the development or within the development; and that, the Southeast 318th Street/316th Avenue Southeast intersection will continue to be a bus stop also. This information suggests that student traffic along the road shoulder area at issue will be extremely light or nonexistent.

Having reconsidered this issue at the Examiner's request, the Department continues to recommend against requiring any roadside shoulder improvement north of the subject property along 316th Avenue Southeast.

9. Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated April 23, 1996 are correct and are incorporated here by reference. A copy of the Land Use Services Division's

Report will be attached to those copies of the Examiner's Report which are submitted to the King County Council.

CONCLUSIONS:

1. Providing bike lanes on both Southeast 320th Street and 116th Avenue Southeast will achieve greater consistency with the King County Non-Motorized Transportation Plan text than deleting

any bicycle lane improvement requirement for either street. Both should be included unless, as suggested by staff, the 320th route is proven to be not feasible.

Considering the preponderance of evidence in this hearing record, including Exhibit Nos. 15 through 21, it can not be concluded that the roadside conditions north of the subject property along 316th Avenue Southeast constitute a safety hazard for students who walk to bus stops from the proposed development or from neighboring residential properties. Consequently, the Applicant should not be required to improve that roadside shoulder. (See Finding No. 8.C, above.)

2. The drainage concerns of some neighboring property owners are wisely placed. It is for that reason that the mitigating measure established through the SEPA process is essential to the community's successful acceptance of this proposed plat. The MDNS condition (incorporated as preliminary plat Condition No. 18 at page 12 of Exhibit No. 2) should be adopted, then implemented and stringently enforced.

The drainage discharge from a four inch diameter pipe emanating from a neighboring property is unrelated to the subject property. That drainage condition may very well cause a cold weather hazard on Southeast 320th Street immediately west of the subject property. Remedying that potential hazard, however, is not a responsibility of this Applicant.

3. Normally, when a case is reconsidered, any new appeal from the Examiner to the Council would be limited solely to the issues of reconsideration. The Applicant has requested the Examiner to consider whether appeals from this Revised Report and Recommendation to the Metropolitan King County Council should be handled in the same manner. It should not. The improperly addressed and therefore misdirected mailing of the Examiner's first (May 2, 1996) Report and Recommendation provides a basis to argue that Mr. Pike did not receive timely notice of the Examiner's Report and Recommendation. The final decision of the Council regarding the proposed plat of Meadows At Lea Hill will be more legally defensible if Mr. Pike is provided another opportunity to appeal the Examiner's Report and Recommendation. This time, his copy of the Report and Recommendation will be mailed to the correct address indicated by him on the record.
4. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Soos Creek Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
5. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
6. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
7. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant, are reasonably necessary as a direct result of the development of this proposed plat.

RECOMMENDATION:

GRANT preliminary approval to the proposed plat of THE MEADOWS AT LEA HILL as described in the revised preliminary plat drawing received by the King County Land Use Services Division on February 9, 1996, (Exhibit No. 2), SUBJECT to the eighteen conditions of final plat approval stated on pages 8 through 12 of the Department's Preliminary Report to the Hearing Examiner dated April 23, 1996, EXCEPT that recommended Condition No. 8b on page 9 of that same Report shall be amended to read as follows:

The frontage of the property along Southeast 320th Street (north side only) shall be improved to the collector arterial standard, including the provision of a bike lane, if determined to be feasible by Land Use Services Division.

ORDERED this 19th day of June, 1996.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 19th day of June, 1996, to the following parties and interested persons:

Hal Grubb & Wayne Potter/Barghausen Consulting Engineers	
David Maxwell, Harbour Homes	Carol & Jim Sundquist
Ron Grina/Triad Associates	Mark Hornberger
Robert & Mary Johnson	John L. Scott Land Department
Thomas Pike	Judith Freeman
Glenda Remillard	John Merlino/Geonerco, Inc.
King Conservation District	John Schneider, Jr.

Lanny Henoch, DDES/LUSD, Site Plan Review
Tom Koney, Metropolitan King County Council
Michaelene Manion, DDES/LUSD, Site Plan Review
Paulette Norman, Dept. of Transportation
Lisa Pringle, DDES/LUSD, Site Plan Review
Steve Townsend, DDES/LUSD, Land Use Inspection
Bruce Whittaker, DDES/LUSD, Engineering Review

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before **July 3, 1996**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before **July 10, 1996**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this Report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this Report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE APRIL 23, 1996 PUBLIC HEARING AND JUNE 17, 1996 REOPENED PUBLIC HEARING ON LAND USE SERVICES FILE NO. L95P0006 - MEADOWS AT LEA HILL:

R. S. Titus was the Hearing Examiner in this matter. Participating at the April 23, 1996 hearing were Lanny Henoch, Bruce Whittaker, Wayne Potter, Jim Sundquist, Judith Freeman, and Thomas Pike.

On April 23, 1996 the following exhibits were offered and entered into the hearing record:

Exhibit No. 1	Department of Development and Environmental Services File No. L95P0006 - The Meadows At Lea Hill
Exhibit No. 2	Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the April 23, 1996 public hearing
Exhibit No. 3	Department of Development and Environmental Services File No. L95V0099 (road variance application concerning intersection spacing)
Exhibit No. 4	Subdivision application (2 sheets) dated received March 29, 1995
Exhibit No. 5a	Environmental checklist dated received March 29, 1995
Exhibit No. 5b	Revised environmental checklist dated received February 9, 1995
Exhibit No. 6	Mitigated determination of non-significance issued January 16, 1995
Exhibit No. 7	Affidavit of posting received January 25, 1995

Exhibit No. 8	Revised preliminary plat map (3 sheets) received February 9, 1996: <ul style="list-style-type: none">a. preliminary platb. conceptual grading & drainage planc. 500' ownership radius map
Exhibit No. 9	Land use map - Kroll maps 720E, 721W, 732E and 757W
Exhibit No. 10	Annotated King County assessor map for the SE 1/4 of Sec. 8, Twp. 21, R. 5
Exhibit No. 11	Letter, dated February 9, 1996, from G. Wayne Potter, Barghausen Consulting Engineers, Inc.
Exhibit No. 12	Traffic impact analysis, The Transpo Group, Inc., dated August 8, 1995
Exhibit No. 13	Level II drainage study, Barghausen Consulting Engineers, Inc., dated July 31, 1995
Exhibit No. 14	Page 31 and a map from King County Non-Motorized Transportation Plan adopted by Ordinance 10812

MINUTES OF THE JUNE 17, 1996 REOPENED PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L95P0006 - MEADOWS AT LEA HILL:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Lanny Henoch, Bruce Whittaker, Paulette Norman, John Merlino, Wayne Potter, Hal Grubb, and Tom Pike.

The following exhibits were offered and entered into the record:

Exhibit No. 15	Letter dated May 29, 1996 from Thomas Pike to Examiner, with February 14, 1996 letter to Mark Carey attached, and 5 color Xeroxed photos attached
Exhibit No. 16	Examiner's Notice of Reopened Hearing and Disclosure Order dated May 23, 1996
Exhibit No. 17	Letter dated June 4, 1996 from Examiner to Wayne Potter, with Potter letter to Examiner dated May 31, 1996 attached
Exhibit No. 18	Letter dated May 20, 1996 from Thomas Pike to Geonerco Inc.
Exhibit No. 19	Three pages of photos submitted by Wayne Potter, showing current site conditions
Exhibit No. 20	Three photos of walkways on 116th Avenue SE, taken by the Department of Development and Environmental Services
Exhibit No. 21	Four photos of walkways on east side of 116th Avenue SE, in vicinity of SE 316th Street, taken by the Department of Development and Environmental Services

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